Payment in lieu or Taxes



United States Department of the Interior

Payment in lieu of taxes

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The payment of taxes on real property is a responsibility which accompanies the acquisition of the property. When the Federal Aid program participates in the purchase of real property, it also may participate in the payment of taxes or payment in lieu of taxes that the State is legally required to pay provided the requirement is applied uniformly to federally assisted properties and other applied uniformly to federally assisted properties are allowable under properties acquired by the grantee. Such costs are allowable under the Federal Aid program in the same ratio of participation as the ratio of costs in the acquisition.

When the Federal Aid program does not participate in the acquisition of real property, it cannot participate in the payment of any tax or payment in lieu of taxes. The fact that a Federal Aid project has developed or operated an area that was not acquired with Federal Aid funds is not adequate reason to accept liability for the payment of property taxes or payment in lieu of taxes.

Roman H. Koenings

A-87 Attachment B

d. Rental costs under leases which are required to be treated as capital leases under GAAP are allowable only up to the amount that would be allowed had the governmental unit purchased the property on the date the lease agreement was executed. This amount would include expenses such as depreciation or use allowance, maintenance, and insurance. The provisions of Financial Accounting Standards Board Statement 13 shall be used to determine whether a lease is a capital lease. Interest costs related to capital leases are allowable to the extent they meet the criteria in section 26.



39. Taxes.

- a. Taxes that a governmental unit is legally required to pay are allowable, except for self-assessed taxes that disproportionately affect Federal programs or changes in tax policies that disproportionately affect Federal programs. This provision becomes effective for taxes paid during the governmental unit's first fiscal year that begins on or after January 1, 1998, and applies thereafter.
- b. Gasoline taxes, motor vehicle fees, and other taxes that are in effect user fees for benefits provided to the Federal Government are allowable.
- c. This provision does not restrict the authority of Federal agencies to identify taxes where Federal participation is inappropriate. Where the identification of the amount of unallowable taxes would require an inordinate amount of effort, the cognizant agency may accept a reasonable approximation thereof.
- 40. <u>Training</u>. The cost of training provided for employee development is allowable.

41. Travel costs.

- a. <u>General</u>. Travel costs are allowable for expenses for transportation, lodging, subsistence, and related items incurred by employees traveling on official business. Such costs may be charged on an actual cost basis, on a per diem or mileage basis in lieu of actual costs incurred, or on a combination of the two, provided the method used is applied to an entire trip, and results in charges consistent with those normally allowed in like circumstances in non-federally-sponsored activities. Notwithstanding the provisions of section 23, travel costs of officials covered by that section, when specifically related to Federal awards, are allowable with the prior approval of a grantor agency.
- b. <u>Lodging and subsistence</u>. Costs incurred by employees and officers for travel, including costs of lodging, other subsistence, and incidental expenses, shall be considered reasonable and allowable only to the extent such costs do not exceed charges normally allowed by the governmental unit in its regular operations as a result of the governmental unit's policy. In the absence of a written governmental unit policy regarding travel costs, the rates and amounts established under subchapter I of Chapter 57 of Title 5, United States Code "Travel and Subsistence Expenses; Mileage Allowances," or by the Administrator of General Services, or the President (or his designee) pursuant to any provisions of such subchapter shall be used as guidance for travel under Federal awards (41 U.S.C. 420, "Travel Expenses of Government Contractors").
- c. <u>Commercial air travel</u>. Airfare costs in excess of the customary standard (coach or equivalent) airfare, are unallowable except when such accommodations would: require











U.S. Fish & Wildlife Service Division of Federal Aid

4401 North Fairfax Drive, Ste 140 Arlington, VA 22203

> Phone: 703-358-2156 Fax: 703-358-1837



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Telephone Number:		



United States Department of the Interior

FISH AND WILDLIFE SERVICE Bishop Henry Whipple Federal Building 1 Federal Drive Fort Snelling, MN 55111-4056 JUN 0 3 1997

Memorandum

To:

Director (FA)

Attn: Robert E. Lange, Chief, Federal Aid

From:

Assistant Regional Director, Region 3

Subject:

Clarification of Policy Regarding Payment in Lieu of Taxes (PILOT)

Attached you will find a letter from the Minnesota Department of Natural Resources requesting further clarification of policy regarding Payment in Lieu of Taxes (PILOT). Minnesota's request is the result of our interpretation as to whether, or not, the Minnesota DNR Section of Wildlife can receive Federal Aid reimbursement for payments in lieu of tax.

Our response based on FA Policy Memorandum 84-3 dated December 12, 1983, (copy attached) addressing "Allowability of Property Taxes Under the Federal Aid Program" follows:

"If the state agency is required to pay PILOT for all of the lands it owns, then the share of the PILOT payments attributable to Federal Aid purchased lands is an eligible program cost. If all of the lands are purchased with Federal Aid dollars, then the total PILOT payment is an eligible cost. However, if there is a mix of Federal Aid purchased, state purchased, transferred, gift, etc. only the prorated share of the total PILOT costs attributable to lands the state has acquired with Federal Aid dollars would be considered allowable. Also, if different funding ratios (75/25, 60/40, 50/50, etc.) were used when acquiring different tracts of land, the state would need to assess the eligible PILOT payment on a tract by tract basis to arrive at the total eligible cost.

Although a response to a question contained in a recent draft implementation guide for OMB Circular A-87 addressed this by stating, 'PILOT taxes are allowable if they are consistently assessed against all activities, regardless of the source of funding,' participation rate was not addressed, nor the fact that A-87 is generic to all grant programs and allows granting agencies to provide additional policy and guidance."

Since we are not certain the OIG is the appropriate entity for response to Minnesota's request, we would appreciate your office either providing an answer, forwarding this request to the OIG, or submitting it to the appropriate office for response. Please keep us informed as to the progress and ultimate clarification response to Minnesota. We wish to thank you for your assistance in this matter. Contact Nikki DesRosier at 612/725-3596 if you have additional questions.

Bradley V. Johnson Assistant Regional Director Federal Aid

Attachment

cc: Chuck Niska, MN DNR



Minnesota Department of Natural Resources

500 Lafayette Road St. Paul, Minnesota 55155-40

May 12, 1997

Mr. Bradley Johnson, Assistant Regional Director U. S. Fish and Wildlife Service Division of Federal Aid 1 Federal Drive Ft. Snelling, MN 55111-4056

RE: Request for Interior's-Office of Inspector General Opinion and Clarification Regarding Payments in Lieu of Taxes

Dear Brad.

On behalf of the Minnesota DNR-Division of Fish and Wildlife, I am requesting that the Region 3 Federal Aid Office forward this letter to the Department of the Interior's Office of Inspector General. The issue requiring clarification for Minnesota and other states involves the latest DOI guidance for reimbursement (through the Federal Aid Program) of state payments in lieu of tax (PILOT) to local governments for our wildlife management areas (WMAs).

For a number of years, Minnesota has been receiving a 75 per cent reimbursement from the Wildlife Restoration Program for the whole payment made by MN-DNR to counties for all WMA lands purchased, a total in the range of \$ 600,000. To my knowledge, these payments were allowed and approved by each Federal Aid biologist assigned to work with the wildlife development project in which these payments were an annual expense receiving reimbursement. Within the last year, a member of your staff came upon a 1983 policy memo (# 84-3) from the Washington Federal Aid Office Associate Director stating that PILOT payments could only be made for property with Federal Aid ownership interest, in the same proportion as the property's FA-interest at the time of purchase.

Upon learning of policy memo 84-3, I requested clarification and guidance from the Federal Aid Regional Office, since it seemed what we were being allowed for years by your staff in taking full reimbursement was in conflict with the content of the memo. It was my thought and that of the FA-Wildlife Biologist working with our projects at the time that, perhaps, there had been a subsequent policy memo released superseding policy memo 84-3, since we had each inherited this activity's being allowed for reimbursement from other state and federal staff.

Further, the draft guidance document OASC-10: Cost Principles and Procedures for Establishing Cost Allocation Plans and Indirect Cost Rates for Grants and Contracts with the Government (i.e., the 1996 revision of the Implementation Guide for OMB Circular A-87) references PILOT payments as allowable, with the following statement:

DNR Information: 612-296-6157, 1-800-766-6000 - TTY: 612-296-5484, 1-800-657-3929

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"Generally, PILOT taxes are allowable if they are consistently assessed against all activities, regardless of the source of funding" (page 3-29 of OASC-10, Question 3-55).

There are multiple questions MN-DNR has in regard to the shown response, including

- * "What is the DOI interpretation of the term "all activities?"
- * "In what framework does the second phrase, "regardless of the source of funding" have relevancy (i.e., does it apply in this situation)?"
- * "Does this statement have pertinence in the situation where a state does land management based on federal guidelines, whether those activities are reimbursed or not?"

Generally, MN-DNR Division of Fish and Wildlife follows standards, specifications and guidelines that are in compliance with Federal Aid-required guidelines, whether an activity is actually reimbursed or not. In many respects, we greatly overspend what our Federal Aid reimbursement affords us, and have consistent guidelines for activities, including access and other compliance standards, that mirror those of the federal government. Our further contention is that many of our wildlife management eligible activities for which we receive reimbursement for take place on lands managed by the Division of Fish and Wildlife, regardless of ownership interest. If we take the strict interpretation of policy memo 84-3 into account, should we only receive reimbursement for only those activities taking place only on Section of Wildlife land with Federal Aid ownership interest? MN-DNR's position for years has been to take the opposite approach; we will give Federal Aid credit through signing and other measures regardless of whether or not reimbursement was received, as long as it is an activity eligible for reimbursement. If stricter interpretation is necessary, this will create another requirement for field staff to follow and then implement, which we would hope to avoid.

In any event, I would ask that you forward this letter on to the Inspector General, with the expectation that this will help to provide guidance to Minnesota, and to other states as well. If any further questions or information are required, feel free to contact me at 612-296-0598. Please copy me with any further correspondence regarding this matter. Thanks for your assistance.

Sincerely.

Charles E. Niska, Federal Aid Coordinator

Division of Fish and Wildlife

cc: Tim Bremicker, Section of Wildlife Chief

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Dia



United States Department of the Interior

FISH AND WILDLIFE SERVICE WASHINGTON, D.C. 20240

ADDRESS CHLY THE DIRECTOR. RISK AND WILLIAMS SERVICE

DEC 12 1985

FA Policy Memorandum 84-3

To:

Regional Directors, FWS, Regions 1 - 7

Front

Acting Associate Director

Subject: Allowability of Property Taxes Under the Federal Aid Programs

The payment of taxes on real property is a responsibility which accompanies the acquisition of the property. When the Federal Aid program participates in the purchase of real property, it also may participate in the payment of taxes or payment in lieu of taxes that the State is legally required to pay provided the requirement is applied uniformly to federally assisted properties and other properties acquired by the grantee. Such costs are allowable under the Federal Aid program in the same ratio of participation as the ratio of costs in the acquisition.

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Roman E. Koenings